

Remarks

Thank you for your work in connection with this application. Applicant notes, with appreciation, the Examiner's indication that claims 2-6 include allowable subject matter.

Following are Applicant's remarks responsive to the Office Action.

Preliminary Matters

The undersigned law firm has assumed responsibility for further prosecution of this patent application. A Revocation of Power of Attorney and Appointment of New Power of Attorney and a Rule 3.73(b) statement are provided. Kindly address all future communications to the undersigned law firm.

Information Disclosure Statements were filed March 11, 2003 and December 29, 2003 (including the required fee). Kindly provide us with a copy of each Form 1449 including the examiner's initials so that the file indicates that the Office has considered these references.

Amendments

The inventor's name is amended consistent with the executed Declaration filed May 7, 2002. The umlaut "ä" was omitted from the inventor's surname.

The specification is amended as noted. As is apparent, the amendments are stylistic and non-substantive. The specification is amended throughout to consistently use the term "elongate element" with reference number 13 and the term "resilient element" with reference number 14. These are non-substantive, non-limiting amendments. The "cord" and "flexible element" previously referred to by reference number 13 are merely examples of elongate elements (See e.g., Application at page 3, lines 22-24) while the "elastic body" or "elastic element" used with

number 14 are examples of resilient elements. Typographical errors to the text and certain reference numbers are corrected and several reference numbers are added to the text for improved clarity. At page 6, lines 5-10 the description of the relationship of the piston and cylinder is adjusted for consistency.

The claims are amended as noted. Text additions are underlined and text deletions are indicated by the strike out marks therethrough. Certain text deletions involving text elements of fewer than five characters are in double brackets.

New claims 7 and 8 are rewritten claims 1 and 2 in means-plus-function format and with non-substantive preamble modifications placing the claims in a form more in accord with U.S. practice. Claims 7-8 address the informalities under 35 U.S.C. § 112 noted at page 3 of the Office Action and do not change the scope of these claims as filed.

Dependent claims 3-6 include preamble amendments non-substantively changing the preambles to a form more in accord with U.S. practice. Dependent claims 4-6 now use the term “elongate” which has the same meaning as elongated but is changed solely for agreement with the specification. Dependent claim 6 uses a more appropriate Markush format to exemplify representative materials which may be used for the elongate element. Other minor stylistic changes are made as noted.

Claims 9-17 are new apparatus claims and claims 18-25 are new method claims. Entry of these claims is requested. All of these claims are supported by the Application, for example at page 4, lines 4-13 (exemplary positioner); page 5, lines 6-23 (control of leg prosthesis movement during walking) and page 5, line 27 through page 6, line 3 (adjustment of foot relative to leg and

movement of positioner and resilient element).

No new matter is added by any of the foregoing amendments.

Response to Objections/Rejections

Withdrawal of the drawing objection at page 2 of the Office Action is respectfully requested because the drawings, as filed, are in order. Regarding reference number 24, please note that Figure 4 of the drawings includes reference number 24 associated with opening 24. Regarding reference number 13, the “elongate element” text amendment noted above should favorably resolve any drawing objection regarding reference number 13.

The rejection under 35 U.S.C. § 112 is believed to be addressed by the claim amendments. New claims 7 and 8 are rewritten versions of claims 1 and 2. Claims 7-8 and 3 incorporate appropriate means language.

Claim 1 was rejected under 35 U.S.C. § 102(b) based on WO 96/25898 (Gramnas) and FR 800,547 (Streisguth). Claims 2-6 were stated to include allowable subject matter but were objected to because of the action taken with respect to claim 1.

Neither Gramnas nor Streisguth show a movable resilient element corresponding to Applicant’s claimed resilient element (and the associated structure) which limits pivoting movement as claimed in independent claims 7, 9 and 18 (and the dependent claims). The advantage of Applicant’s resilient element structure is that said resilient element provides a similar range of movement in all relative positions of the foot and leg elements. This advance provides for a more natural walking motion whether the user is walking on downwardly-sloped surface or is walking on a level in elevated-heel shoes (i.e., the shoe sole is the downwardly-

sloped surface).

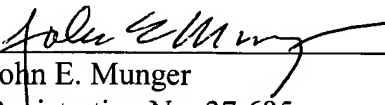
None of this is possible with Gramnas which has a fixed-position dampening member 18 or Streisguth which has a fixed-position element 8. Streisguth has no positioner nor does it include (at least as far as counsel can discern from the drawings) any apparatus permitting relative adjustment of the foot and leg elements of the prosthesis.

Applicant's claims are believed to clearly distinguish over the art of record.

Conclusion

Allowance of the claims is requested in view of the foregoing remarks. The Examiner is invited to call the undersigned if that would be of assistance in resolving any outstanding issue regarding this application. The Commissioner is authorized to debit or credit deposit account 10-0270 for the full amount of any other fee due in connection with this paper or any overpayment. Kindly notify the undersigned in the event that the deposit account is debited or credited.

Respectfully submitted,

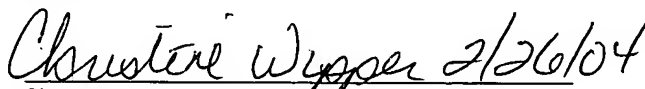
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Name: Christine M. Wipper


Signature Date